

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

HYO YEOL EOM,) No. SA CV 08-01209-SVW (VBK)
Petitioner,)
v.) ORDER (1) ACCEPTING AND ADOPTING
MICHAEL SMELOSKY,) THE REPORT AND RECOMMENDATION OF
Respondent.) THE UNITED STATES MAGISTRATE
) JUDGE, AND (2) DISMISSING THE
) PETITION FOR WRIT OF HABEAS
) CORPUS
)

Pursuant to 28 U.S.C. §636, the Court has made a de novo review of the Petition for Writ of Habeas Corpus ("Petition"), Respondent's Answer, all of the records herein and the Report and Recommendation of the United States Magistrate Judge ("Report").

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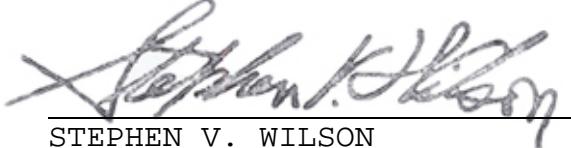
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1 **IT IS ORDERED** that: (1) the Court accepts and adopts the Report
2 and Recommendation, (2) the Court declines to issue a Certificate of
3 Appealability ("COA");¹ and (3) Judgment be entered denying and
4 dismissing the Petition with prejudice.

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6 DATED: September 2, 2010

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8 STEPHEN V. WILSON
9 UNITED STATES DISTRICT JUDGE

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21 ¹ Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the
22 applicant has made a substantial showing of the denial of a
23 constitutional right." The Supreme Court has held that, to obtain a
24 Certificate of Appealability under §2253(c), a habeas petitioner must
25 show that "reasonable jurists could debate whether (or, for that
matter, agree that) the petition should have been resolved in a
26 different manner or that the issues presented were 'adequate to
27 deserve encouragement to proceed further'." Slack v. McDaniel, 529
U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks
omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct.
1029 (2003). After review of Petitioner's contentions herein, this
Court concludes that Petitioner has not made a substantial showing of
the denial of a constitutional right, as is required to support the
issuance of a COA.